

AMENDED IN ASSEMBLY JANUARY 27, 2014

AMENDED IN ASSEMBLY MAY 23, 2013

AMENDED IN ASSEMBLY MAY 13, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 802**

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**Introduced by Assembly Member Wieckowski**

February 21, 2013

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An act to amend Section 1281.96 of the Code of Civil Procedure, relating to consumer arbitration.

### LEGISLATIVE COUNSEL'S DIGEST

AB 802, as amended, Wieckowski. Private arbitration companies: disclosures.

Existing law regulates arbitration conducted pursuant to an arbitration agreement, as specified. Existing law requires a private arbitration company involved in consumer arbitration cases to collect and make certain information regarding those cases available to the public in a computer-searchable format, accessible at the Internet Web site of the private arbitration company, if it has an Internet Web site, and on paper upon request.

This bill would require a private arbitration company to collect additional information related to a consumer arbitration case, as specified, and to provide the information in a single cumulative report. The bill would require a private arbitration company to make the report available ~~as raw data in an open standard~~ *in a* format that allows the public to ~~search, extract, organize, and analyze~~ *search* the information, and to make the report accessible ~~on the home page of the private arbitration company's Internet Web site, as specified. The bill would,~~

~~within 30 days of the closing of a consumer arbitration case, require a private arbitration company to provide each party with the specific information that the company proposes to report, and to provide the parties with a reasonable period of time to notify it of any errors. The bill also would authorize a consumer or public prosecutor to bring an action solely for injunctive relief to enjoin a material violation of these provisions, as specified. The bill would express the intent of the Legislature that private arbitration companies comply with all legal obligations under these provisions, and also would provide that any amendments made by this act to the reporting requirements of a private arbitration company would not apply to consumer arbitrations administered by the private arbitration company before January 1, 2015.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1281.96 of the Code of Civil Procedure
- 2 is amended to read:
- 3 1281.96. (a) Except as provided in paragraph (2) of subdivision
- 4 (c), a private arbitration company that administers or is otherwise
- 5 involved in a consumer arbitration, shall collect, publish at least
- 6 quarterly, and make available to the public on the Internet Web
- 7 site of the private arbitration company, if any, and on paper upon
- 8 request, a single cumulative report that contains all of the following
- 9 information regarding each consumer arbitration within the
- 10 preceding five years:
- 11 (1) Whether arbitration was demanded pursuant to a pre-dispute
- 12 arbitration clause and, if so, whether the pre-dispute arbitration
- 13 clause designated the administering private arbitration company.
- 14 ~~(2) Whether the arbitration was administered pursuant to, or as~~
- 15 ~~a result of, a petition to compel arbitration.~~
- 16 ~~(3)~~
- 17 (2) The name of the nonconsumer party, if the nonconsumer
- 18 party is a corporation or other business entity, and whether the
- 19 nonconsumer party was the initiating party or the responding party.
- 20 ~~party, if known.~~
- 21 ~~(4) The state in which the arbitration occurred and the state in~~
- 22 ~~which each party resides.~~

1     ~~(5)~~

2     (3) The nature of the dispute involved as one of the following:  
3 goods; credit; other banking or finance; insurance; health care;  
4 construction; real estate; telecommunications, including software  
5 and Internet usage; debt collection; personal injury; ~~or employment.~~  
6 ~~employment; or other.~~ If the dispute involved employment, the  
7 amount of the employee's annual wage divided into the following  
8 ranges: less than one hundred thousand dollars (\$100,000), one  
9 hundred thousand dollars (\$100,000) to two hundred fifty thousand  
10 dollars (\$250,000), inclusive, and over two hundred fifty thousand  
11 dollars (\$250,000). *If the employee chooses not to provide wage*  
12 *information, it may be noted.*

13     ~~(6) Whether any counterclaims or cross-claims were requested~~  
14 ~~or allowed, and whether class arbitration was requested or granted.~~

15     ~~(7)~~

16     (4) Whether the consumer or nonconsumer party was the  
17 prevailing party as defined in Section 1032: *party.*

18     ~~(8)~~

19     (5) The total number of occasions, if any, the nonconsumer  
20 party has previously been a party in an ~~arbitration:~~ *arbitration or*  
21 *mediation administered by the private arbitration company.*

22     ~~(9) The total number of occasions, if any, the nonconsumer~~  
23 ~~party has previously been a party in a mediation administered by~~  
24 ~~the private arbitration company.~~

25     ~~(10)~~

26     (6) Whether the consumer party was represented by an attorney  
27 and, if so, the name of the attorney and the full name of the law  
28 firm that employs the attorney, if any.

29     ~~(11)~~

30     (7) The date the private arbitration company received the  
31 demand for arbitration, the date the arbitrator was appointed, and  
32 the date of disposition by the arbitrator or private arbitration  
33 company.

34     ~~(12)~~

35     (8) The type of disposition of the dispute, if known, identified  
36 as one of the following: withdrawal, abandonment, settlement,  
37 award after hearing, award without hearing, default, or dismissal  
38 without hearing. If a case was administered in a hearing, indicate  
39 whether the hearing was conducted in person, by telephone or  
40 video conference, or by documents only.

1     ~~(13) Whether the private arbitration company rejected or~~  
2     ~~declined to administer the dispute and, if so, the reasons upon~~  
3     ~~which the decision was based.~~

4     ~~(14) Whether the private arbitration company terminated~~  
5     ~~administration of the dispute for nonpayment of fees and, if so,~~  
6     ~~the party or parties that failed to pay the required fees.~~

7     ~~(15)~~

8     (9) The amount of the claim, whether equitable relief was  
9     requested or awarded, the amount of any monetary award, the  
10    amount of any attorney's fees awarded, and any other relief  
11    granted, if any.

12    ~~(16)~~

13    (10) The name of the arbitrator, his or her total fee for the case,  
14    the percentage of the arbitrator's fee allocated to each party,  
15    *whether a waiver of any fees was granted*, and ~~whether the fee~~  
16    ~~allocation was included in the underlying award., if so, the amount~~  
17    ~~of the waiver.~~

18    ~~(17) The total amount of the private arbitration company's fees,~~  
19    ~~the percentage of those fees allocated to each party, whether a~~  
20    ~~waiver of any fees was granted for an indigent party, and, if so,~~  
21    ~~the amount of the waiver.~~

22    ~~(18) The rules governing the arbitration, including whether the~~  
23    ~~parties were permitted full discovery, whether the arbitrator was~~  
24    ~~required to apply the law, whether the arbitrator was required to~~  
25    ~~follow the rules of evidence, and whether the parties were entitled~~  
26    ~~to all legal remedies.~~

27    (b) The information required by this section shall be made  
28    ~~available as raw data in an open standard~~ a format that allows the  
29    public to ~~search, extract, organize, and analyze~~ *search* the  
30    information, and shall be directly accessible from a conspicuously  
31    displayed link on the Internet Web site ~~home page, if any,~~ of the  
32    private arbitration company with the identifying description:  
33    "consumer case information." ~~The information shall be presented~~  
34    ~~alphabetically by nonconsumer party name, and within that order,~~  
35    ~~chronologically based on the filing date of the arbitration.~~

36    (c) (1) If the information required by subdivision (a) is provided  
37    by the private arbitration company in compliance with subdivision  
38    (b) and may be downloaded without a fee, the company may charge  
39    the actual cost of copying to any person who requests the  
40    information on paper. If the information required by subdivision

1 (a) is not accessible by the Internet in compliance with subdivision  
2 (b), the company shall provide that information without charge to  
3 any person who requests the information on paper.

4 (2) Notwithstanding paragraph (1), a private arbitration company  
5 that receives funding pursuant to Chapter 8 (commencing with  
6 Section 465) of Division 1 of the Business and Professions Code  
7 and that administers or conducts fewer than 50 consumer  
8 arbitrations per year may collect and publish the information  
9 required by subdivision (a) semiannually, provide the information  
10 only on paper, and charge the actual cost of copying.

11 (d) This section shall apply to any consumer arbitration  
12 commenced on or after January 1, 2003.

13 (e) A private arbitration company shall not have any liability  
14 for collecting, publishing, or distributing the information required  
15 by this section.

16 ~~(f) Within 30 days of closing a consumer arbitration case subject~~  
17 ~~to this section, a private arbitration company shall provide each~~  
18 ~~party with a copy of this section and the specific information that~~  
19 ~~the company proposes to report pursuant to subdivision (a). The~~  
20 ~~private arbitration company shall provide the parties with a~~  
21 ~~reasonable period of time to notify it of any errors and shall~~  
22 ~~promptly correct any errors.~~

23 ~~(g) A consumer or public prosecutor, as described in Section~~  
24 ~~17204 of the Business and Professions Code, may bring an action~~  
25 ~~solely for injunctive relief to enjoin a material violation of this~~  
26 ~~section. A technical, clerical, or de minimus violation shall not~~  
27 ~~constitute a material violation.~~

28 *(f) It is the intent of the Legislature that private arbitration*  
29 *companies comply with all legal obligations of this section.*

30 *(g) The amendments to subdivision (a) made by the act adding*  
31 *this subdivision shall not apply to any consumer arbitration*  
32 *administered by a private arbitration company before January 1,*  
33 *2015.*